

Remarks

Entry of the above-noted amendments, reconsideration of the application, and allowance of all claims pending are respectfully requested. Claims 1-5, 7-11, 20, 22, 24-30, 34-39, and 45-48 will be pending.

Applicant's attorney gratefully acknowledges the telephone interview with Examiner Aung Win and his supervisor Duc Nguyen on November 9, 2007 during which applicability of the applied prior art references was discussed. No agreement was reached.

Applicant's arguments presented below focus on certain patentable differences between the invention as claimed and the applied references. However, it is not to be inferred that the failure to argue all differences between the claimed subject matter and the applied references constitutes acceptance of assertions made in the Office Action of alleged similarities between elements of the claimed subject matter and the applied references.

Claim Objection

Claim 1 was objected to for an inadvertent prior amendment striking out (deleting) the phrase "communication application server". This is overcome by the insertion of the subject phrase in the present amendment. Withdrawal of this objection is requested.

Claim Rejection - 35 U.S.C. §112, second paragraph:

Claim 20 was rejected under 35 U.S.C. 112, second paragraph, as containing the phrase "the stored initial voice message" which was said to lack sufficient antecedent support. This rejection is overcome by deletion of "initial" from the subject phrase, there being antecedent support for "the stored voice message" in the preceding storing step. Withdrawal of this rejection is requested.

Claim Rejection - 35 U.S.C. §103:Claims 1-4 and 7-10

Claims 1-4 and 7-10 were rejected under 35 U.S.C. 103 based on Simpson (US 200401041593A1) in view of Dahod (US 20040224678). These rejections are respectfully traversed, and at least some of the reasons for withdrawing the rejections are explained below.

Claim 1

Claim 1 is directed to a method implemented by a push-to-talk wireless mobile terminal that is in the position of a recipient of incoming calls. A determination is made if a first input from a user of the first mobile terminal has been made requesting selectable acceptance management for incoming calls not yet initiated to the first mobile terminal. If the request has been made, the first mobile terminal transmits a first control message to a communication application server. The first control message represents an instruction to implement selectable acceptance of future incoming calls to the first mobile terminal. Selectable acceptance includes storing at the communication application server an initial voice message associated with the incoming call to the first mobile terminal. The initial stored voice message is transmitted to the first mobile terminal from the communication application server during a real-time communication session only upon the communication application server receiving a playback signal from the first mobile terminal where the playback signal is distinct from another signal generated by the first mobile terminal upon a depression of a push-to-talk button on the first mobile terminal. Thus, a request is transmitted from the first mobile terminal to the communication application server before the initial voice message from the calling party will be delivered from storage to the first mobile terminal from the communication application server. Further, this request is not a signal from the first mobile terminal generated by pressing a PTT button.

Claim 1 :Playback signal

Claim 1 requires: "where the playback signal [that is transmitted to the communication application server from the mobile] is distinct from another signal generated by the first mobile terminal upon a depression of a push-to-talk button on the first mobile terminal." As was acknowledged in the Office Action, Simpson does not disclose a PTT wireless mobile terminal. In accordance with Simpson, the service node initiates one leg of a 3-way conference call to the subscriber's remote telephone and, upon the subscriber answering the incoming call on the remote telephone, the subscriber is bridged to the other leg of the call between the caller and a voice mail system. The signal sent to the service node from the remote telephone to cause the bridging is an off-hook at the remote telephone indicating the answering of the call. In accordance with the combination suggested in the Office Action, a wireless PTT phone of Dahod is relied upon to provide the PTT requirement of claim 1. An "answer" of an incoming call to the PTT wireless phone in Dahod is a transmission acknowledgment generated by a PTT button depression. In fact Dahod teaches that an answer, i.e. PTT button depression, is required in order for the voice message to be sent to the mobile; see Dahod Fig. 3, steps 1004 and 1012. However, claim 1 specifies that the playback signal generated by the mobile terminal is not generated by a PTT button depression. Therefore, even if a PTT wireless phone of Dahod was proper to be considered with the teachings of Simpson, this would not provide the required limitations of claim 1. Both Dahod and Simpson teach the use of conventional "answer", either a PTT button press in Dahod or an off-hook of a phone in Simpson, as a signal to infrastructure equipment to permit delivery of a voice transmission. Both of these are antithetical to the requirement of claim 1 in which the playback signal is distinct from a signal generated by the first mobile terminal upon a depression of a push-to-talk button on the first mobile terminal. Therefore, since neither Simpson, Dahod, nor the combination thereof, teach this requirement of claim 1, a *prima facie* basis for the rejection has not been made and withdrawal of the rejection of claim 1 is requested.

Claim 1: stored initial voice message

The limitation in claim 1 of the transmitting requirement (last six lines of claim 1) was stated in the Office Action to be disclosed by Simpson by:

[Recorded voice mail message is transmitted only if subscriber answers the call initiated from the network device by answering the call or listen only mode: 0012-0014 & 0053].

Simpson does not teach the transmission of a **stored** initial voice message to the subscriber's remote call monitoring telephone directory number during the real-time communication session. It is clear from paragraphs 12-14, 53 and the other relevant descriptions in Simpson that the three-way conference call set up between the incoming caller, the subscriber's home voice mail system, and the subscriber's remote call monitoring telephone provides a voice bridge that permits the subscriber, upon answering the remote call monitoring telephone, to "listen to the voice mail message being recorded by the incoming caller." (Paragraph 12) That is, a subscriber in accordance with the teachings of Simpson is permitted to concurrently listen to the real-time voice of the calling party as it is simultaneously sent to and then recorded by the subscriber's voice mail system. For example, if the subscriber answers the predetermined remote telephone after the calling party has already begun dictating a voice mail message, the subscriber will hear the current words being spoken by the calling party as part of a voice mail message, but is not provided with any spoken words dictated by the calling party before the bridging of the remote telephone, i.e. no playback from stored voice is provided. Therefore, Simpson does not teach this limitation of claim 1. Even if PTT functionality of Dahod was incorporated into Simpson, this would not change the basic 3-way conference call operation of Simpson in which only concurrent voice bridging is provided. Therefore the combination of these two references fails to make a *prima facie* ground for the rejection, which is requested to be withdrawn.

Combination of references:

It is important to note that Dahod is directed to an improvement in perceived latency by originating party for the call and provides no benefit to the called party. The objective of Dahod

is counter to the objective of Simpson in which the improvement is for the benefit of the called party, i.e. allows the called party to monitor a voice mail as it is being left for the called party. Hence one of ordinary skill in the art would not look to the teaching of Dahod when considering the teaching of Simpson. Therefore, the suggested incorporation of the teachings of Dahod into Simpson would not have been utilized by one of ordinary skill in the art based on the substantially different problems addressed by these two references, and based on the difference in infrastructure and operation of Simpson as compared to that of wireless PTT infrastructure and operation in Dahod. This would have made the suggested substitution of a PTT handset of Dahod into the teachings of Simpson not practical, if not impossible.

Further, the objective of Simpson is to allow concurrent monitoring of a voice message as it is being left so that the called party at a remote telephone, who is just listening in, can elect to have the 3-way conference call disconnected in favor of connection of a normal 2-way call between the subscriber at the remote telephone and the calling party. Playing back a stored voice message with its inherent delay is antithetical to the desired operation of Simpson of being able to redirect the 3-way call while the message is being simultaneously recorded. Therefore the purposed combination of teachings is not sustainable. Withdrawal of the rejections based this combination is requested.

Claim 2:

In claim 2 the stored initial voice message is transmitted to the first mobile terminal from storage at the communication application server from the beginning of the voice message. As explained above, Simpson does not provide such a teaching and further teaches that concurrent monitoring of a voice message as it is being recorded is required. It was stated that Dahod discloses a PTT wireless mobile terminal and a voice mail messaging system for storing initial voice message of a caller in the voice mail system if the receiving user of the PTT mobile terminal does not answer the PTT call. Assuming only for purposes of argument that Dahod does disclose such information, combining this with the teachings of Simpson would not lead one of ordinary skill in the art to the invention of claim 2.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)

A principle of operation of Simpson is to allow concurrent monitoring of a voice message as it is being left so that the called party, who is just listening in, can elect to have the 3-way conference call disconnected in favor of connection of a normal 2-way call between the subscriber at the remote telephone and the calling party. Playing back a stored voice message with its inherent delay is antithetical to the desired operation of Simpson of being able to redirect the 3-way call while the message is being simultaneously recorded. Therefore a combination of teachings would not be sustainable if the combination was to incorporate the transmission of a stored voice message into Simpson because such a modification would change the principle of operation of the invention of Simpson. Withdrawal of the rejections based this combination is requested.

Claims 7 and 8

Independent claim 7 and dependent claim 8 are allowable for similar reasons explained for claims 1 and 2, respectively.

Independent claims 20, 30, 45 & 46

These claims were rejected under 35 U.S.C. 103 based on Simpson (US 200401041593A1) in view of Elias (US 20050089149A1). These rejections are respectfully traversed, and at least some of the reasons for withdrawing the rejections are explained below.

In the Office Action Simpson is relied upon as teaching the requirements of these independent claims except for a lack of teaching a PTT communication network or providing the caller with the availability status of the user of the first mobile terminal. These latter deficiencies are alleged to be taught by Elias. Since Elias is not relied upon to provide the missing limitations as discussed above with regard to claim 1, the relied upon teachings of Elias in combination with Simpson do not overcome the lack of teaching in Simpson of the limitations discussed above for

claim 1. Therefore, these independent claims are not rendered obvious based upon Simpson, Elias or the combination thereof, and the withdrawal of the rejection of these claims is requested.

Dependent claims 47 and 48:

New claims 47 and 48 are allowable for reasons discussed above for claim 2.

Non-Amended Claims = non-final action

If no amendments are made to the claims, the examiner must not rely on any other teachings in the reference if the rejection is made final. If a newly cited reference is introduced by the examiner that is not necessitated by applicant's amendment of the claims, the rejection may not be made final. MPEP 2144.03

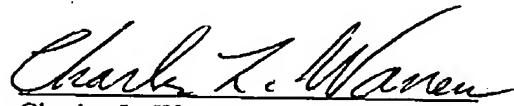
Pursuant to MPEP 706.07(c), it would be inappropriate to make an Office Action final should other teachings or new references be applied in support of a rejection of any of claims 1, 7, 45 or 46 since applicant has made no substantive amendments to these claims to necessitate such a change of position.

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In view of the above amendments and remarks, allowance of all claims pending is respectfully requested. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney.

Respectfully submitted,



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Dated: December 7, 2007

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